

IN THE UNITED STATES DISTRICT COURT
FOR THE
NORTHERN AND SOUTHERN DISTRICTS OF IOWA

FILED
U.S. DISTRICT COURT
NORTHERN DISTRICT OF IOWA
12 MAR 30 PM 4:41

CEGAR RAPIDS DISTRS. OFFICE

IN THE MATTER OF
PREJUDGMENT NOTICES
UNDER THE FEDERAL DEBT
COLLECTION PROCEDURES ACT

)
)
)
)
)
ORDER

my

For cause, it is

ORDERED that the attached Notice of Prejudgment Remedies is hereby approved for use in the United States District Courts for the Northern and Southern Districts of Iowa pursuant to 28 U.S.C. §3011.

DONE AND ORDERED this 20th day of March, 1992.

Donald E. O'Brien

Donald E. O'Brien, Chief Judge
United States District Court
Northern District of Iowa

Harold D. Vietor

Harold D. Vietor, Chief Judge
United States District Court
Southern District of Iowa

UNITED STATES DISTRICT COURT
DISTRICT OF _____

United States of America,)
Plaintiff,) _____ (case number) _____
)
)
v.)
)
Defendant(s).)

NOTICE OF PREJUDGMENT(_____))
[Attachment, Garnishment, Receivership, Sequestration]

You are hereby notified that this _____ [property] _____ is being taken by the United States Government ("the Government") which says that _____ [name of debtor] _____ owes it a debt of \$ _____ [amount] _____ for _____ [reason for debt] _____ and has filed a lawsuit to collect this debt. The Government says it must take this property at this time because _____ [recite the pertinent ground or grounds from 28 U.S.C. § 3101(b)] _____. The Government wants to make sure _____ [name of debtor] _____ will pay if the court determines that this money is owed.

In addition, you are hereby notified that there are exemptions under the law which may protect some of the property from being taken by the Government if _____ [name of debtor] _____ can show that the exemptions apply. Attached is a summary of the major exemptions which apply in most situations in the State of _____ [State where debtor's domicile is located] _____.

If you are _____ [name of debtor] _____ and you disagree with the reason the Government gives for taking your property now, or if you think you do not owe the money to the Government that it says you do, or if you think the property the Government is taking qualifies under one of the attached exemptions, you have a right to ask the court to return your property to you.

If you want a hearing, you must notify the court before the judgment on the claim. You must make your request in writing, and either mail it or deliver it in person to the Clerk of the Court at _____ [address] _____. If you wish, you may use this notice to request the hearing by checking the box below and mailing this notice to the court clerk. You must also send a copy of your request to the Government at _____ [address] _____, so the Government will know you want a hearing. The hearing will take place within 5 days after the clerk receives your request, if you ask for it to take place that quickly, or as soon after that as possible.

At the hearing you may explain to the judge why you think you do not owe the money to the Government, why you disagree with the reason the Government says it must take your property at this time, or why you believe the property the Government had taken is exempt or belongs to someone else. You may make any or all of these explanations as you see fit.

It you think you live outside the federal judicial district in which the court is located, you may request, not later than 20 days after you receive this notice, that this proceeding to take your property be transferred by the court to the federal judicial district in which you reside. You must make your request in writing, and either mail it or deliver it in person to the Clerk of the Court at [address]. You must also send a copy of your request to the Government at [address], so the Government will know you want the proceeding to be transferred.

Be sure to keep a copy of this notice for your own records. If you have any questions about your rights or about this procedure, you should contact a lawyer, an office of public legal assistance, or the Clerk of the Court. The clerk is not permitted to give legal advice, but can refer you to other sources of information.

Date: _____

CLERK, UNITED STATES DISTRICT COURT

REQUEST FOR HEARING

I hereby request a court hearing. Notice of the hearing should be given to me by mail at

(Address)

or telephonically at

(Telephone Number)

Date: _____

Signature of defendant

Defendant's printed or typed name

NOTICE TO DEFENDANT ON
HOW TO CLAIM EXEMPTIONS

The attached prejudgment or postjudgment process has been issued on request of the United States of America.

The law provides that certain property and wages cannot be taken. Such property is said to be exempted. This Notice lists the exemptions under federal law and your state law. There is no exemption solely because you are having difficulty paying your debts.

If you claim an exemption, you should (i) select either the federal Bankruptcy Code Exemptions or the state law exemptions, (ii) fill out the claim for exemption form and (iii) deliver or mail the form to the clerk's office and counsel for the United States. You have a right to a hearing within five business days, or as soon as practicable, from the date you file your claim with the court.

If the United States of America as creditor is asking that your wages be withheld, the method of computing the amount of wages which are exempt from garnishment by law is indicated on the Claim for Exemption Form which is attached. You do not need to file a claim for exemption to receive this exemption, but if you believe the wrong amount is being withheld, you may file a claim for exemption.

If you request a hearing, you should come to court ready to explain why your property is exempted, and you should bring any documents which may help you prove your case. If you do not come to court at the designated time and prove that your property is exempt, you may lose some of your rights.

It may helpful to you to seek the advice of any attorney in this matter.

CLAIM FOR EXEMPTION FORM

MAJOR EXEMPTIONS UNDER FEDERAL LAW

I claim that the exemption(s) which are checked below apply in this case:

- ___ 1. Social Security benefits and Supplemental Security income (42 U.S.C. § 407).
- ___ 2. Veteran's benefits (38 U.S.C. § 3101).
- ___ 2a. Members of armed services annuities (10 U.S.C. § 1440, 38 U.S.C. § 562).
- ___ 3. Federal civil service retirement benefits (5 U.S.C. § 8346 and 22 U.S.C. § 4060(c)).
- ___ 4. Annuities to survivors of federal judges (28 U.S.C. § 376(n)).
- ___ 5. Longshoremen and Harborworkers Compensation Act (33 U.S.C. § 916).
- ___ 6. Black lung benefits (30 U.S.C. §§ 931(b)(2)(F) and 932(a)).
- ___ 6a. Seaman's master's or fisherman's wages, except for child support or spousal support and maintenance (46 U.S.C.A. §§ 1108-1109(a-c)).
- ___ 6b. Railroad retirement, pension, unemployment benefits (45 U.S.C. §§ 231(m), 352(e)).
- ___ 7. Compensation for war risk hazards (42 U.S.C. § 1717).
- ___ 8. BANKRUPTCY CODE (Title 11, United States Code) which generally provides exemptions for:
- ___ 8a. \$7,500 in equity in a residence.

Address of
Residence

Fair Market
Value

Liens

Equity

_____ \$ _____

\$ _____

\$ _____

____ 8b. \$1,200 in equity in a motor vehicle.

Property Claimed:

Fair Market Value

\$ _____

____ 8c. \$500 in jewelry.

Property Claimed:

Fair Market Value

\$ _____

____ 8d. \$4,000 in personal property.

Property Claimed:

Fair Market Value

\$ _____

____ 8e. In addition, a debtor who does not own a residence or who has less than \$7,500 in equity in a residence may exempt an additional \$3,750 in personal property. Additional exemptions or limited exemptions apply to such items as insurance contracts, pensions and various benefits such as Social Security.

Property Claimed:

Fair Market Value

\$ _____

NOTE:

If you select the Bankruptcy Code exemptions (lines 8a through 8e above), you may not also claim the state law exemptions listed below.

MAJOR EXEMPTIONS UNDER STATE LAW

NOTE: If you select the exemptions available under state law, the law of the state where you have been domiciled for the greater part of the last 180 days governs your rights.

___ 9. State of Iowa, which generally provides exemptions for:

___ 9a. Homestead Exemption

		<u>Statute</u>	<u>Fair Market Value</u>
___ (i)	$\frac{1}{2}$ A in city plot (give address) _____ _____	\$ 561.1	\$ _____
___ (ii)	40 A if not w/i city plot (give description) _____ _____		\$ _____
___ 9b.	Wearing apparel not to exceed \$1,000 total value and wedding/engagement rings	\$ 627.6	\$ _____ \$ _____
___ 9c.	One shot gun and either one rifle or one musket (describe) _____ _____ _____		\$ _____
___ 9d.	Private libraries, bibles, potraits, pictures, or paintings not to exceed \$1,000 total value (describe) _____ _____		\$ _____
___ 9e.	Burial Plot		\$ _____
___ 9f.	Household furnishings, goods or appliances not to exceed a total of \$2,000 (list items separately) _____ _____ _____ _____ _____		\$ _____ \$ _____ \$ _____ \$ _____ \$ _____

____ 9g. Life insurance (describe) \$ _____

____ 9h. Professionally prescribed health aids (describe) \$ _____

____ 9i. Debtors rights

(1) Social Security Benefits, unemployment compensation, or public assistance benefits (circle one) \$ _____

(2) Veterans Benefit \$ _____

(3) Disability or illness Benefits \$ _____

(4) Alimony, support or separate maintenance to the extent necessary for support \$ _____

(5) Payments under pension, annuity or similar plan to extent necessary for support (describe) \$ _____

____ 9j. Any combination of the following not to exceed a total value of \$5,000

(1) Musical instruments for personal use (describe) \$ _____

(2) One motor vehicle (give make, model, year and license number) \$ _____

(3) Tax refunds up to \$1,000 \$ _____

____ 9k. Debtors interest in cash on hand, not to exceed \$100 in the aggregate

____ 9l. If the debtor is engaged in a profession other than farming, the implements, books, tools of the trade not to exceed a total value of \$10,000 (state the profession and list each item)

\$ _____
\$ _____
\$ _____
\$ _____
\$ _____

____ 9m. If the debtor is engaged in farming, the implements, equipment, livestock and feed reasonably related to normal farming operation (list items separately)

\$ _____
\$ _____
\$ _____
\$ _____
\$ _____

Judgment Debtor/Defendant

Copies disbursed on March 31, 1992 to:

Chief Judge Donald E. O'Brien
Senior Judge Edward J. McManus
Chief Magistrate Judge John A. Jarvey
William J. Kanak, Clerk
Clerk's divisional office, Sioux City, IA.
All Cedar Rapids deputies
United States Attorney, Cedar Rapids, IA.

Charles L. Scott